



PLANNING COMMISSION AGENDA

Wednesday, September 13, 2006

5:00 p.m. STUDY SESSION

Room # T-332

General Plan/Discussion on Planning Director hiring process

**6:30 p.m. Regular Meeting
Council Chambers
City Hall Wing**

**200 East Santa Clara Street
San Jose, California**

Xavier Campos, Chair

James Zito, Vice-Chair

Dang T. Pham Bob Dhillon

Christopher Platten

Ash Kalra

Matt Kamkar

**Joseph Horwedel, Acting Director
Planning, Building and Code Enforcement**

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Xavier Campos** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of ***Wednesday, September 13, 2006***. Please remember to turn off your cell phones and pagers. Parking ticket validation machines for the garage under City Hall are located at the rear of the Chambers. If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the AV technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4a, not PD06-023.**

The procedure for this hearing is as follows:

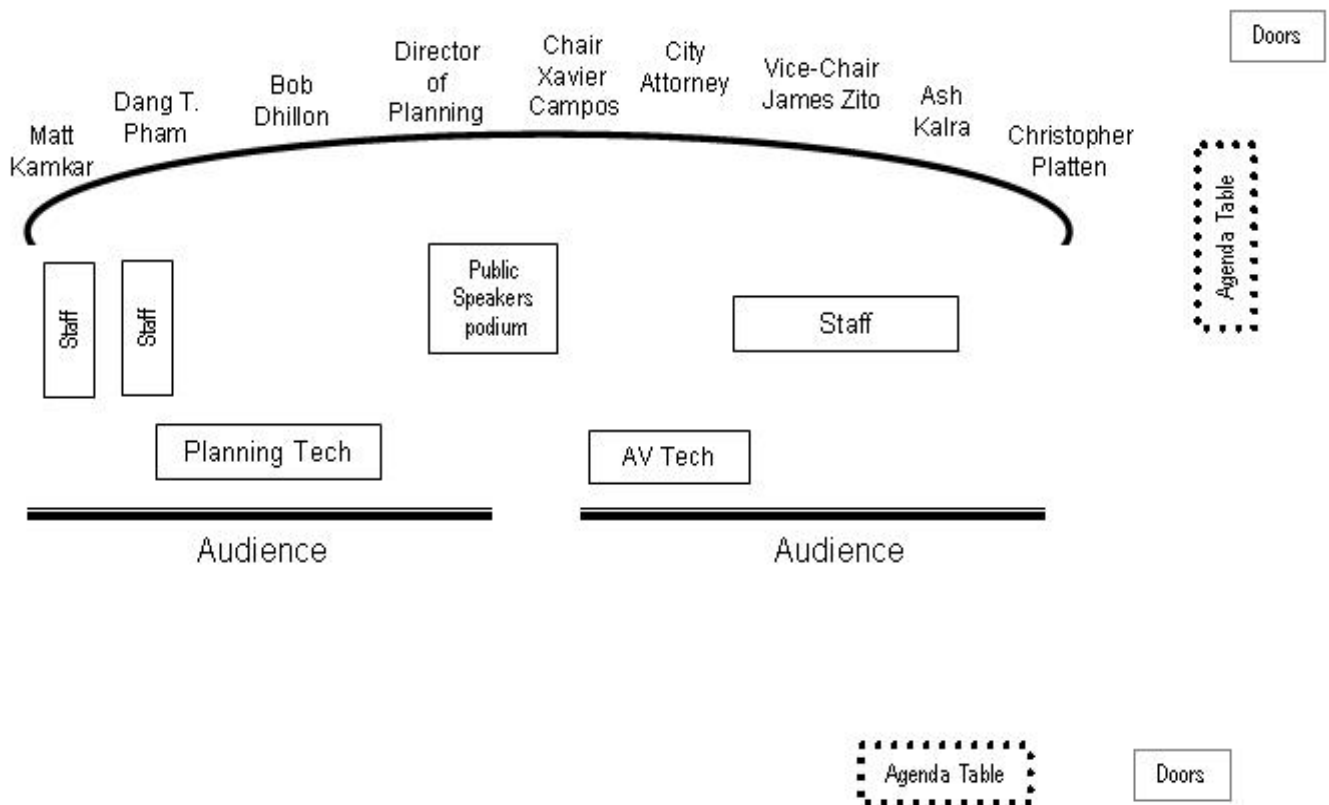
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda questions, please contact Olga Guzman at olga.guzman@sanjoseca.gov

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San Jose Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. The remaining meeting schedule is attached to this agenda and the annual schedule is posted on the web at <http://www.sanjoseca.gov/planning/hearings/index.htm> Staff reports, etc. are also available on-line. If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA
ORDER OF BUSINESS

1. ROLL CALL

2. DEFERRALS

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

- a. **PDC06-034**. Planned Development Rezoning from the current A(PD) Planned Development Zoning District which allows up to 969 single-family and multi-family residential units and approximately 18,000 square feet of commercial space site to a new A(PD) Planned Development Zoning District to modify the previously approved General Development Standards to allow (1) a reduction in setbacks along Monterey Road, (2) to allow detached units, and (3) to clarify the park dedication requirement on a 29.5-acre site located at the southwest corner of Monterey Road and Goble Lane. (2745 Monterey Road) (ROEM Development Corporation, Owner/Developer). Council District 7. SNI: None. CEQA: Goble Lane EIR Resolution No.72877, File No. PDC02-066.

DEFER TO 9-27-06

- b. **An Ordinance amending Title 21** of the San Jose Municipal Code, the Zoning Code, to add a new section and amending section 21.06.030 of Chapter 21.06 of Title 21, all related to providing for an additional appeal to the City Council of certain environmental clearance determinations. CEQA: Not a Project. Deferred from 8-9-06 and 8-23-06.

DEFER TO 9-27-06

- c. **PDC06-065**. Planned Development Rezoning from R-1-8 Residential Zoning District to an A(PD) Planned Development Residential Zoning District to allow the construction of two single family detached residences arrange in a flag lot configuration for the property located on the west side of Settle Avenue, approximately 500 feet northwest of Minnesota Avenue (1305 Settle Avenue) (3564 Highland Llc, Owner). Council District 6. SNI: None. CEQA: Exempt.

DEFER TO 9-27-06

3. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. [CP06-019](#). Conditional Use Permit to allow the installation of a 42-foot-high wireless communications monopole and associated ground-level equipment cabinets (approximately 300 sq.ft.) on a 0.70 gross acre site in the CN Neighborhood Commercial Zoning District, located on north side of East Capitol Expressway, approximately 400 feet westerly of McLaughlin Avenue (1033 E Capitol Expressway) (Mastumoto Melvin F Trustee & Et Al, Owner). Council District 7. SNI: None. CEQA: Exempt. Deferred from 8-23-06.

Staff Recommendation:

Approve a Conditional Use Permit to allow the installation of a 42-foot-high wireless communications monopole and associated ground-level equipment cabinets as recommended by Staff.

- b. [C06-073](#). Conventional Prezoning from Unincorporated County to R-1-8 Single Family Residence District on a 0.23 gross acre site, located at the southwest corner of Delia Street and McKee Road (293 DELIA ST) (Navarro Transito and Maria Et Al, Owner). Council District 5. SNI: None. CEQA: San Jose 2020 General Plan EIR Resolution No. 65459.

Staff Recommendation:

Consider the Environmental Impact Report in accordance with CEQA. Recommend to the City Council approval of a Conventional Prezoning from Unincorporated County to R-1-8 Single Family Residence District as recommended by Staff.

- c. [CP03-010](#). Adoption of a resolution by the Planning Commission regarding a Compliance Hearing to assess the compliance of the Fiesta Nightclub with the previous conditions of approval and to impose new conditions or restrictions as deemed appropriate for the previously approved Conditional Use Permit, which allowed an entertainment/ drinking establishment and operation after midnight on a 2.16 gross acre site in the CN Neighborhood Commercial Zoning District, located at the northeast corner Monterey Road and Rancho Drive (3844 MONTEREY RD) (HAWARI DERAR AND RABAB, HAWARI ALEX, Owner; FIESTA CLUB/MIGUEL SANDOVAL, Developer). Council District 7. SNI: None. CEQA: Addendum to ND. Deferred from 8-9-06.

Staff Recommendation:

Consider the Mitigated Negative Declaration in accordance with CEQA. Adopt a Resolution to accept the compliance report and require that the applicant comply with all of the specified conditions within 60 days of the acceptance of this report. Further, staff recommends that additional conditions, as noted in the memorandum to the Commission and as discussed

at the 8/23/06 hearing, be incorporated into the previous Conditional Use Permit approval.

- d. [PDC06-019](#). Planned Development Rezoning of two adjoining sites from CO(PD) and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District and subsequent permits to (1) demolish 3 existing mini storage buildings totaling 27,769 square feet, and (2) construct 2 new mini storage buildings and additions to existing buildings totaling 83,180 square feet for a total increase of 55,411 square feet on a 5.69 gross acre site, located on the north side of Capitol Expressway, approximately 200 feet west of Snell Ave (231 W. Capitol Expwy/3911 Snell Ave) (Public Storage Properties Inc, Owner). Council District 10. SNI: None. CEQA: Draft Mitigated Negative Declaration.

Staff Recommendation:

Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend to the City Council approval of a Planned Development Rezoning of two adjoining sites from CO(PD) and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District and subsequent permits as recommended by Staff.

- e. [C06-031](#). Conventional Rezoning from CG Commercial General Zoning District to DC Downtown Commercial Zoning District to allow commercial uses within a designated City Landmark building on a 0.43 gross acre site, located on the east side of North 2nd Street, approximately 140 feet northerly of St. James Street (240 N 2nd ST) (Bel Aire Inv Inc, Owner). Council District 3. SNI: None. CEQA: Exempt.

Staff Recommendation:

Recommend to the City Council approval of a Conventional Rezoning from CG Commercial General Zoning District to DC Downtown Commercial Zoning District to allow commercial uses within a designated City Landmark building as recommended by Staff.

- f. [C06-044](#). Director Initiated Prezoning from County of Santa Clara to RM – Multiple Residence District for multiple residential purposes on an approximate 10.89 gross acre site located on the southwesterly corner of Capitol Avenue and Gimelli Way (Merlino, Genevieve M. Owner), Council District: 5. SNI: None. CEQA: GP EIR Resolution No. 65459.

Staff Recommendation:

Consider the Environmental Impact Report in accordance with CEQA. Recommend to the City Council approval of a Director Initiated Prezoning from County of Santa Clara to RM – Multiple Residence District for multiple residential purposes as recommended by Staff.

- g. [CP04-050](#). Conditional Use Permit to amend conditions of the previously approved permit RCP03-029 to allow live entertainment at an existing restaurant and night club on a 0.11 gross acre site in the DC Downtown Primary Commercial Zoning District, located on the north side of East San Fernando Street, approximately 100 feet east of North 1st Street (1 East San Fernando St.). Council District 3. SNI: None. CEQA: Exempt.

Staff Recommendation:

Approve a Conditional Use Permit to amend conditions of the previously approved permit RCP03-029 to allow live entertainment at an existing restaurant and night club as recommended by Staff.

The following items are considered individually.

4. **PUBLIC HEARINGS**

- a. **Proposed Language Amendments to the Parkland Dedication Ordinance/Park Impact Ordinance (PDO/PIO) AND Adjustments to In-Lieu Fee**

Staff Recommendation:

Review alternatives and make recommendation to the City Council regarding proposed amendments to the PDO/PIO.

- b. **PD03-021**. ORDER TO SHOW CAUSE for failure to comply with the requirements of Planned Development Permit File No. PD03-021 for a banquet facility within an existing warehouse/office building on the property located on the south side of Murphy Avenue, approximately 400-feet easterly of Oakland Road (1180 Murphy Avenue). The facility has been used in a manner that violates the conditions of the subject Planned Development Permit including, but not limited to, conditions limiting noise and the hours of operation, and prohibiting the creation of a public or private nuisance. Therefore the Planning Commission of the City of San Jose will consider an Order to Show Cause why the Planned Development Permit shall not be revoked, modified, or amended. (Bhupindar Dhillon, owner) A(PD) Planned Development. Council District 4. SNI: None. CEQA: Exempt. Continued from 8-23-06.

Staff Recommendation:

Approve modifications to the Planned Development Permit as recommended by Staff.

- c. **CPA05-039-01**. Conditional Use Permit Amendment for minor modification to the hours of operation, age limit, and alcohol service at an existing eating, drinking and entertainment establishment on a 0.27 gross acre site in the DC Downtown Primary Commercial Zoning District, located on east side of S. 1st Street, approximately 70 feet southerly of San Salvador Street (417 S. 1st Street) (Rosicki Jacek And Ann C, Owner). Council District 3. SNI: None. CEQA: Exempt. Deferred from 8-23-06.

Staff Recommendation:

Approve a Conditional Use Permit Amendment for minor modification to the hours of operation, age limit, and alcohol service as recommended by Staff.

- d. The projects being considered are located on the east side of South Buena Vista Avenue, approximately 260 feet northerly of Scott Street (438 S. Buena Vista Avenue), in the R-M Multiple Residence Zoning District (PARIVASH JAMSHID AND EFFAT, Owner/Developer). Council District 6. SNI: Burbank/Del Monte. CEQA: Exempt.

1. **CP06-025**. Conditional Use Permit to allow conversion of an existing apartment building to an eight unit residential condominium complex on a 0.40 gross acre site.

Staff Recommendation:

Approve a Conditional Use Permit to allow conversion of an existing apartment building to an eight unit residential condominium complex as recommended by Staff.

2. [T06-031](#). Tentative Condominium Map to reconfigure one parcel into one lot for eight residential condominiums on a 0.40 gross acre site.

Staff Recommendation:

Approve a Tentative Condominium Map to reconfigure one parcel into one lot for eight residential condominiums as recommended by Staff.

- e. [CPA94-056-01](#). Conditional Use Permit Amendment to allow late night use between midnight and 6:00 a.m. for the drive-through operation of an existing quick-serve restaurant on a 0.97 gross acre site in the CG General Commercial and HI Heavy Industrial Zoning Districts, located on the northeast corner of E. Santa Clara Street and 27th Street (1299 E SANTA CLARA ST)(McDonald's Corporation, Owner). Council District 3. SNI: Five Wounds/Brookwood Terrace. CEQA: Exempt.

Staff Recommendation:

Deny a Conditional Use Permit Amendment to allow late night use between midnight and 6:00 a.m. for the drive-through operation of an existing quick-serve restaurant as recommended by Staff.

- f. [PDC04-091](#). Planned Development Rezoning from R-1-5 Residence Zoning District to A (PD) Planned Development Zoning District to allow up to three, one existing and two new, single-family detached residences and subsequent subdivision on a 1.7 gross acre site, located on the southwesterly corner of Eberly Drive and Neilson Court (376 NEILSON CT) (Smith Giani, Owner). Council District 2. SNI: None. CEQA: Mitigated Negative Declaration.

Staff Recommendation:

Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend to the City Council conditional approval of a Planned Development Rezoning from R-1-5 Residence Zoning District to A (PD) Planned Development Zoning District to allow up to three, one existing and two new, single-family detached residences and subsequent subdivision as recommended by Staff.

- g. [H03-041](#). APPEAL of the Planning Director's decision to deny a Site Development Permit to construct two buildings totalling 25,361 square feet for medical office and parking structure uses on a 1.75 gross acre site, in the CN Commercial Neighborhood Zoning District, located on the southwest corner of McKee Road and Jose Figueres Avenue (2122 MCKEE RD) (ATKAR MIKE AND KHACHI JOSEPH, Owners/Developers). Council District 5. SNI: None. CEQA: Exempt.

Staff Recommendation:

Uphold the Planning Director's decision to deny a Site Development Permit to construct two buildings totalling 25,361 square feet for medical office and parking structure uses as recommended by Staff.

- h. [PDC06-028](#). Planned Development Rezoning from R-1-8 Single Family Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to two single-family residences, on a 0.30 gross acre site located on the east side of Bird Avenue, approximately 200 feet north of Willow Street (1070 Bird Avenue) (Dreyer Norman P Trustee, Owner). Council District 6. SNI: None. CEQA: Exempt.

Staff Recommendation:

Recommend to the City Council conditional approval of a Planned Development Rezoning from R-1-8 Single Family Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to two single-family residences, as recommended by Staff.

- i. [CP06-011](#). Conditional Use Permit to allow the demolition of approximately 52,000 square feet of existing retail buildings and the construction of approximately 40,118 square feet of new retail buildings on a 4.37 gross acre site in the CN Commercial Neighborhood Zoning District, located at/on northeast corner of Old Tully Road and Monterey Highway (2300 MONTEREY RD) (Canned Foods Inc, Peter Read; Ends In E Corp. Dennis Bridgeman, Owners). Council District 7. SNI: None. CEQA: Exempt.

Staff Recommendation:

Approve a Conditional Use Permit to allow the demolition of approximately 52,000 square feet of existing retail buildings and the construction as recommended by Staff.

5. PETITIONS AND COMMUNICATIONS

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
1. Responding to statements made or questions posed by members of the public; or
 2. Requesting staff to report back on a matter at a subsequent meeting; or
 3. Directing staff to place the item on a future agenda.

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES

7. GOOD AND WELFARE

- a. Report from City Council
- b. Commissioners' reports from Committees:
- Norman Y. Mineta San Jose International Airport Noise Advisory Committee (Campos).

- Coyote Valley Specific Plan (Platten)
 - Evergreen East Hills Vision Strategy Task Force (Zito)
 - Parks Funding Subcommittee (Zito)
- c. Review of synopsis
- d. Schedule a date for the next Planning Commission Retreat and identify topics.

8. ADJOURNMENT

2006 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 11	6:30 p.m.	Regular Meeting	Council Chambers
January 25	6:30 p.m.	Regular Meeting	Council Chambers
February 8	CANCELLED	Regular Meeting	Council Chambers
Thurs. February 16	6:30 p.m.	Regular Meeting	Council Chambers
February 22	6:30 p.m.	Regular Meeting	Council Chambers
March 8	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
March 22	5:00-6:20 p.m.	<i>Study Session</i>	T-332
	Discussion of additional parkland and open space for the City (<i>Joint session with Parks Commission</i>)		
March 22	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
April 12	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
April 26	6:30 p.m.	Regular Meeting	Council Chambers
May 3	5:00 p.m.	<i>Study Session</i>	T-1654
	<i>Review Capital Improvement Program</i>		
May 3	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
May 24	CANCELLED	<i>Study Session</i>	T-332
	<i>Joint study session with Parks Commission</i>		
May 24	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
May 31	CANCELLED	Regular Meeting	Council Chambers
June 5	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
June 14	6:30 p.m.	Regular Meeting	Council Chambers
June 28	6:30 p.m.	Regular Meeting	Council Chambers
July 12	6:30 p.m.	Regular Meeting	Council Chambers
July 26	6:30 p.m.	Regular Meeting	Council Chambers
August 9	5:00 p.m.	<i>Study Session</i>	T-1654
	<i>Joint study session with Parks Commission</i>		
August 9	6:30 p.m.	Regular Meeting	Council Chambers
August 23	6:30 p.m.	Regular Meeting	Council Chambers
September 13	6:30 p.m.	<i>Study Session</i>	T-332
	<i>General Plan/Discussion on Planning Director hiring process</i>		
September 13	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
September 27	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
October 11	6:30 p.m.	Regular Meeting	Council Chambers
October 25	6:30 p.m.	Regular Meeting	Council Chambers
November 8	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
November 15	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
December 6	6:30 p.m.	Regular Meeting	Council Chambers